

Part 1.5 of the Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected. (Code 1961, § 25.6; Ord. No. 515, § 1, 10-9-73)

Sec. 23-29. Penalties.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment. (Code 1961, § 25.7; Ord. No. 515, § 1, 10-9-73)

Sec. 23-30. Continuation of prior sales tax provisions.

Article II of Chapter 25 of the 1961 Code of the city as presently written shall remain applicable for the purposes of administration of said article and the imposition of, and the

collection of tax with respect to the sales of, and the storage, use, or other consumption of tangible personal property prior to January 1, 1974, the making of refunds, effecting credits, the disposition of monies collected, and for the commencement or continuance of any action or proceeding under said article. (Ord. No. 515, § 4, 10-9-73)

Secs. 23-31—23-41. Reserved.

ARTICLE III. REAL PROPERTY TRANSFER TAX

Sec. 23-42. Short title; authority.

This article shall be known as the "Real Property Transfer Tax Ordinance of the City of Belmont." It is adopted pursuant to the authority contained in Part 6.7 (commencing with section 11901) of Division 2 of the Revenue and Taxation Code of the State of California. (Code 1961, § 25.24)

Sec. 23-43. Imposed.

There is hereby imposed on each deed, instrument or writing by which any lands, tenements or other realty sold within the city shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrances remaining thereon at the time of sale) exceeds one hundred dollars (\$100.00), a tax at the rate of twenty-seven and one-half cents (\$0.275) for each five hundred dollars (\$500.00) or fractional part thereof. (Code 1961, § 25.25)

Sec. 23-44. Payment.

Any tax imposed pursuant to section 23-43 shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued. (Code 1961, § 25.26)

Sec. 23-45. Exemptions for government agencies.

The United States or any agency or instrumentality thereof, any state or territory or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this article with respect to any deed, instrument or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor. (Code 1961, § 25.27)

Sec. 23-46. Exemption for instrument securing debt.

Any tax imposed pursuant to this article shall not apply to any instrument in writing given to secure a debt. (Code 1961, § 25.28)

Sec. 23-47. Exemption for bankruptcy, receivership.

Any tax imposed pursuant to this article shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment:

- (a) Confirmed under the Federal Bankruptcy Act, as amended.

- (b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of section 205 of title 11 of the United States Code, as amended.
- (c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of section 506 of title 11 of the United States Code, as amended.
- (d) Whereby a mere change in identity, form or place of organization is effected.

Subsections (a) to (d), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five (5) years from the date of such confirmation, approval or change. (Code 1961, § 25.28)

Sec. 23-48. Exemption for SEC orders.

Any tax imposed pursuant to this article shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of section 1083 of the Internal Revenue Code of 1954; but only if:

- (a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of section 79k of title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;
- (b) Such order specifies the property which is ordered to be conveyed;
- (c) Such conveyance is made in obedience to such order. (Code 1961, § 25.28)

Sec. 23-49. Exemption for partnership.

(a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this article by reason of any transfer of an interest in a partnership or otherwise, if:

- (1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of section 708 of the Internal Revenue Code of 1954; and

- (2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of section 708 of the Internal Revenue Code of 1954, for purposes of this article, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this article by reason of a termination described in subsection (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination. (Code 1961, § 25.29)

Sec. 23-50. Administration of article.

The county recorder shall administer this article in conformity with the provisions of Part 6.7 of Division 2 of the Revenue and Taxation Code and the provisions of any county ordinance adopted pursuant thereto. (Code 1961, § 25.30)

Sec. 23-51. Claims for refunds.

Claims for refunds of taxes imposed pursuant to this article shall be governed by the provisions of Chapter 5 (commencing with section 5096) of Part 9 of Division 1 of the Revenue and Taxation Code of the state. (Code 1961, § 25.31)

Secs. 23-52—23-62. Reserved.

ARTICLE IV. TRANSIENT OCCUPANCY TAX*

Sec. 23-63. Short title.

This article shall be known as, and may be cited as, the "Uniform Transient Occupancy Tax Ordinance of the City of Belmont." (Code 1961, § 29.1)

Sec. 23-64. Definitions.

Except where the context otherwise requires, the definitions given in this section shall govern the construction of this article:

*State law reference—Authority to levy transient room tax, Gov. Code, § 51030.

Hotel means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof. "Hotel" does not mean any of the following: Any hospital, sanitarium, medical clinic, convalescent home, rest home, home for aged people, foster home, or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained and housed under legal restraint, any housing owned or controlled by any educational institution and used exclusively to house students, faculty or other employees, and any fraternity or sorority house or similar facility occupied exclusively by students and employees of such educational institution, and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by any organization having qualifications for exemption from property taxes under the laws of California; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by an employer exclusively for employees.

Occupancy means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

Operator means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this article by either the principal or the managing agent shall, however, be considered to be compliance by both.